

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-6341**

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In Re: JAMES M. DEBARDELEBEN,

Petitioner.

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On Petition for Writ of Mandamus. (CR-83-50)

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Submitted: June 8, 2005

Decided: June 21, 2005

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Before NIEMEYER, WILLIAMS, and GREGORY, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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James M. DeBardleben, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

James M. DeBardleben petitions for a writ of mandamus, alleging the district court has improperly refused to file his 28 U.S.C. § 2255 (2000) motion. He seeks an order from this court directing the district court to file his motion. Our review of the docket sheet reveals that the district court filed DeBardleben's motion and issued a final order dismissing the motion as successive. DeBardleben v. United States, No. 3:05-cv-00176 (W.D.N.C. Apr. 28, 2005). Accordingly, because the district court has taken the action DeBardleben seeks, we deny the mandamus petition as moot. We grant leave to proceed in forma pauperis. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED